

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.373 OF 2003

Shri Choudappa Bhimsha Ningadalli,
aged adult, residing at and post
Maindargi, Tal. Akkalkot,
Dist. Solapur.

Petitioner

vs.

1. State of Maharashtra
through its Secretary,
Tribal Development Department
Mantralaya, Mumbai-400 032.

2. Committee for Scrutiny and
Verification of Tribe Claims,
Pune Division, Pune through its
Deputy Director(R) and
Member-Secretary, having its
office at 28, Queens Garden,
Pune-411 001.

3. Municipal Council through
its Chief Officer,
Maindargi Taluka Akkalkot,
Dist. Solapur.

Respondents

Mr.R.K.Mendadkar with Ms.Helen Koli-Mandlik for the
petitioner.

Mr.C.R.Sonawane, A.G.P. for the respondents 1 and 2.

**CORAM : R. M. LODHA &
R. S. MOHITE,JJ.**

DATED : 6th May 2005

ORAL JUDGMENT (Per R.M.Lodha,J.)

The petitioner-Choudappa Bhimsha Ningadalli filed
his nomination on 7th October 1998 for election to the
Municipal Council, Maindargi, Taluka Akkalkot, Dist.
Solapur from the ward no.12. The Ward No.12 was

reserved for the candidate of Scheduled Tribe. The Returning Officer rejected the petitioner's nomination paper on the ground that the caste certificate submitted by him was false and not issued by the Competent Authority. Aggrieved by the order of the Returning Officer, the petitioner preferred appeal being Election Appeal No.2/1998 in the District Court at Solapur. The Fourth Additional District Judge vide his judgment dated 3rd November 1998 set aside the order of the Returning Officer passed on 7th October 1998. The petitioner then contested the election to the Municipal Council, Maindargi and was duly returned. The petitioner's caste claim was referred to the Caste Scrutiny Committee for verification. The Caste Scrutiny Committee by its order dated 17th June 2002 held that the petitioner did not belong to Mahadeo Koli-Scheduled Tribe. Aggrieved thereby the petitioner has approached this Court under Article 226 of the Constitution of India.

2. The only contention raised by the learned counsel for the petitioner assailing the order of the Caste Scrutiny Committee is that the Caste Scrutiny Committee failed to take into consideration the finding recorded by the Fourth Additional District Judge, Solapur in its judgment dated 3rd November 1998 in Election Appeal No.2/1998 to the effect that the petitioner had proved that he belongs to Mahadeo Koli-Scheduled tribe.

3. The contention of the learned counsel for the petitioner has no substance. First, the Election Tribunal (Fourth Additional District Judge) in the Election Appeal No.2/1998 was only concerned with the correctness or otherwise of the order of the Returning Officer whereby the nomination filed by the petitioner was rejected on the ground that the caste certificate submitted by the petitioner was false. The falsity of the caste certificate submitted by the petitioner is one thing and the verification of the petitioner's caste claim the other. While dealing with that issue, the Election Tribunal observed that the certificate of the caste produced by the petitioner was true. It was issued by the Competent Authority after observing the guidelines in that regard. In passing reference, the Election Tribunal observed that the petitioner had produced the school leaving certificate of his daughter Kum.Mahananda to show her caste as Mahadeo Koli and this document supports the claim of the petitioner. The finding of the Election Tribunal in substance is that the certificate of caste produced by the petitioner was true and that it was issued by the Competent Authority. Secondly, the Election Tribunal had no competence or authority to enquire into the validity of caste claim of the petitioner and the finding, if any, recorded by the Election Tribunal in its order dated 3rd November 1998

cannot and does not bind the caste Scrutiny Committee. In law, the Caste Scrutiny Committee is the only authority having jurisdiction and competence to go into the aspect of verification of caste claim of the candidate who submitted the caste certificate and based on that contested the election.

4. The Caste Scrutiny Committee has considered the petitioner's caste claim on the basis of documents produced by the petitioner and the vigilance report. The petitioner in support of his caste claim relied upon the four documents (one) the extract of school admission register of his son Basavanna Choudappa Ningadalli (two) the school leaving certificate of his daughter-Savita Choudappa Ningadalli (three) the school leaving certificate of his another daughter-Shivnanda Choudappa Ningadalli and (four) the extract of school admission register of his third daughter.

5. All these documents pertain to the period from 1988 to 1994 and are of none others but his own children. Such documents have no evidentiary value in determining the petitioner's caste claim. The caste is acquired by birth and it would be mockery of the system if the person proves his caste on the basis of his children documents. We have no hesitation in holding that these documents have been created by the petitioner in his own

favour for getting the benefit of reserved category and cannot help the petitioner in establishing his caste claim.

6. The order of the Caste Scrutiny Committee does not suffer from any infirmity.

7. Writ petition is dismissed with no order as to costs.

8. The interim relief stands discharged on dismissal of writ petition.

(R.M. LODHA,J.)

(R.S. MOHITE,J.)